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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,272	12/02/2003	Leon R. Manole	2003-056	1271

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U.S. ARMY TACOM-ARDEC
ATTN: AMSTRA-AR-GCL
BLDG 3
PICATINNY ARSENAL, NJ 07806-5000

EXAMINER

HAYES, BRET C

ART UNIT PAPER NUMBER

3644

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,272

Applicant(s)

MANOLE ET AL.

Examiner

Bret C. Hayes

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1 – 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Re – the claims in general, examiner is having great difficulty deciphering the claims, as the “**BEST AVAILABLE COPY**” is terrible at best. Examiner cannot clearly ascertain whether the rejections under 112 of the previous office action have been corrected. While examiner could make a best guess as to the patentability of the claims, examiner believes that the printing department would be hard-pressed to clearly duplicate the claim language. There is an apparent ‘white line’ through the left hand side of all the claims. Examiner requests another copy of the claims preferably in a larger font, as the current font does not appear to make a clear copy via facsimile. With that in mind, the following rejections may or may not have credence, but are to the best of the examiner’s ability at present.

4. Claims 2 and 3 recite the limitation “light visible to the observer”, which lacks antecedent basis in the claims as the first and second heat chemicals emit heat and not light.

5. Claim 4 appears to have deleted the “a” of “a separate bags”, but, as stated above, the copy is too unclear.

6. Claim 6 recites “mixing the heat chemicals”, which is unclear as examiner’s understanding is that there is a first heat chemical for illuminating the projectile during its flight

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and a second heat chemical for illuminating the target upon impact. Are the first and second heat chemicals being mixed together? If so, is there support for this in the specification?

7. Claim 8 recites the limitation “the containment bags” which lacks antecedent basis in the claims. The claim depends from claim 5, which recites “a containment bag” only.

8. Examiner requests Applicants revisit and revise the claims carefully as there appears to be similar ambiguities throughout the remainder of the claims. Some examples follow.

9. Claims 15 – 17 appear to recite limitations requiring the mixing of the heat chemicals as indicated at claim 6 above. Clarification is requested.

10. Claims 20 and 21 appear to recite limitations requiring light as indicated at claims 2 and 3 above. Clarification is requested.

11. Claim 33 recites the limitation “said plastic mounting piece”, which lacks antecedent basis in the claims, as the claim does not ultimately depend from claim 30, which is the claim that initially recites “a plastic mounting piece”.

12. While examiner believes a thorough search of the prior art has been conducted, upon receipt of a clearer amendment of the claims, the search will be updated and rejections made should any prior art appear to anticipate or obviate the claimed invention.

13. Any unspecified claim is rejected as being dependent upon a rejected base claim.

Terminal Disclaimer

14. The terminal disclaimer filed on 13 APR 05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,497,181 B1 to Manole et al. has been reviewed and is accepted. The terminal disclaimer has been recorded.

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Conclusion

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (571) 272 – 6902. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

On July 15, 2005, the Central FAX Number will change to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for “centralized delivery”.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (571)272 – 7045. The fax number is (703) 872 – 9306.

bh

14-Jul-05



TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER